

**REPORT OF THE AUDIT OF THE  
PERRY COUNTY  
SHERIFF**

**For The Year Ended  
December 31, 2008**



**CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS  
[www.auditor.ky.gov](http://www.auditor.ky.gov)**

**209 ST. CLAIR STREET  
FRANKFORT, KY 40601-1817  
TELEPHONE (502) 564-5841  
FACSIMILE (502) 564-2912**



## **EXECUTIVE SUMMARY**

### **AUDIT EXAMINATION OF THE PERRY COUNTY SHERIFF**

**For The Year Ended  
December 31, 2008**

The Auditor of Public Accounts has completed the Perry County Sheriff's audit for the year ended December 31, 2008. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

#### **Financial Condition:**

Excess fees decreased by \$6,337 from the prior year, resulting in excess fees of \$3,474 as of December 31, 2008. Revenues increased by \$62,986 from the prior year and expenditures increased by \$69,323.

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#### **Debt Obligations:**

Capital lease principal agreements totaled \$4,154 as of December 31, 2008. Future principal and interest payments of \$4,154 are needed to meet these obligations.

#### **Report Comments:**

- 2008-01 The Sheriff Should Have Requested An Accurate Amendment For Salary Allotment For Deputies And Assistants
- 2008-02 The Sheriff Should Consult With The County Attorney Concerning Employee Social Security Deductions Paid From The Fee Account
- 2008-03 The Sheriff Should Enter Into A Written Agreement To Protect Deposits
- 2008-04 The Sheriff's Office Has A Lack Of Segregation Of Duties

#### **Deposits:**

The Sheriff did not have a written security agreement for the surety bond to protect deposits.



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**CRIT LUALLEN**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Denny Ray Noble, Perry County Judge/Executive  
The Honorable Les Burgett, Perry County Sheriff  
Members of the Perry County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the Sheriff of Perry County, Kentucky, for the year ended December 31, 2008. This financial statement is the responsibility of the Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the Sheriff for the year ended December 31, 2008, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated April 6, 2010 on our consideration of the Perry County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Denny Ray Noble, Perry County Judge/Executive  
The Honorable Les Burgett, Perry County Sheriff  
Members of the Perry County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- 2008-01 The Sheriff Should Have Requested An Accurate Amendment For Salary Allotment For Deputies And Assistants
- 2008-02 The Sheriff Should Consult With The County Attorney Concerning Employee Social Security Deductions Paid From The Fee Account
- 2008-03 The Sheriff Should Enter Into A Written Agreement To Protect Deposits
- 2008-04 The Sheriff's Office Has A Lack Of Segregation Of Duties

This report is intended solely for the information and use of the Sheriff and Fiscal Court of Perry County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a stylized flourish at the end.

Crit Luallen  
Auditor of Public Accounts

April 6, 2010



PERRY COUNTY  
LES BURGETT, SHERIFF  
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2008

Revenues

Federal - U.S. Army Corps of Engineers	\$	14,616
State - Kentucky Law Enforcement Foundation Program Fund		39,367
State Fees For Services:		
Finance and Administration Cabinet	\$	157,145
Sheriff's Security Service		8,211
Cabinet For Health and Family Services		493
		165,849
Circuit Court Clerk:		
Fines and Fees Collected		380
Court Ordered Payments		11,810
		12,190
Fiscal Court		106,105
County Clerk - Delinquent Taxes		5,915
Commission On Taxes Collected		467,001
Fees Collected For Services:		
Auto Inspections		8,250
Accident and Police Reports		520
Serving Papers		50,080
Carrying Concealed Deadly Weapon Permits		3,600
		62,450
Other:		
Appalachian Regional Hospital (ARH)		6,600
Sheriff's Add On Fees		77,232
Sheriff's Fees On Taxes		5,688
Refunds		6,719
Unlawful Narcotics Investigations, Treatment, and Education (UNITE)		38,312
Insurance Reimbursement		1,719
Overtime Reimbursement		4,388
Election Commissions		3,625
Telecommunications Tax Distribution		8,768
Miscellaneous		3,392
		156,443
Interest Earned		1,657

The accompanying notes are an integral part of this financial statement.

PERRY COUNTY  
 LES BURGETT, SHERIFF  
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
 For The Year Ended December 31, 2008  
 (Continued)

Revenues (Continued)

Borrowed Money:

State Advancement	\$ 163,191
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Total Revenues	1,194,784
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Expenditures

Operating Expenditures and Capital Outlay:

Personnel Services-

Deputies' Gross Salaries	\$ 335,288
Justice Center Personnel	173,351
UNITE Personnel	38,893

Employee Benefits-

Employer's Share Social Security	44,856
Employer's Share Retirement	5,423

Materials and Supplies-

Office Materials and Supplies	10,329
Uniforms	15,902
Firearms & Ammunition	10,899

Auto Expense-

Gasoline	72,048
Maintenance and Repairs	49,237

Other Charges-

Dues	793
Postage	1,968
Unemployment Insurance	7,467
Miscellaneous	21,993
Telephone	5,532
Pagers and Cell Phone	2,176
Copier	2,769
Computer Service	6,998
Antenna Space for Radio	1,200
Fiscal Court - Paper Fee	10,980

The accompanying notes are an integral part of this financial statement.

PERRY COUNTY  
 LES BURGETT, SHERIFF  
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
 For The Year Ended December 31, 2008  
 (Continued)

Expenditures (Continued)

Operating Expenditures and Capital Outlay: (Continued)

Capital Outlay-

Vehicles	\$ 96,896	
Vehicle Equipment	<u>32,051</u>	\$ 947,049

Debt Service:

State Advancement	<u>163,191</u>
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Total Expenditures	\$ <u>1,110,240</u>
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Net Revenues	84,544
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Less: Statutory Maximum	<u>79,308</u>
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Excess Fees	5,236
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Less: Training Incentive Benefit	<u>1,762</u>
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Excess Fees Due County for 2008	3,474
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Payment to Fiscal Court - March 16, 2009	<u>325</u>
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Balance Due Fiscal Court	<u><u>\$ 3,149</u></u>
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The accompanying notes are an integral part of this financial statement.

PERRY COUNTY  
NOTES TO FINANCIAL STATEMENT

December 31, 2008

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the Sheriff as determined by the audit. KRS 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2008 services
- Reimbursements for 2008 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2008

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

PERRY COUNTY  
NOTES TO FINANCIAL STATEMENT  
December 31, 2008  
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 16.17 percent for the first six months and 13.50 percent for the last six months of the year. Hazardous covered employees are required to contribute 8 percent of their salary to the plan. The county's contribution rate for hazardous employees was 33.87 percent for the first six months and 29.50 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Aspects of benefits for hazardous employees include retirement after 20 years of service or age 55.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. These requirements were not met, as the depository institution did not have a written agreement with the Sheriff securing the Sheriff's interest in the surety bond provided as collateral.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2008, all deposits were covered by FDIC insurance or a surety bond; however, the Sheriff did not have a properly executed surety bond agreement.

PERRY COUNTY  
 NOTES TO FINANCIAL STATEMENT  
 December 31, 2008  
 (Continued)

Note 4. Leases

The Sheriff's office was committed to the following lease agreements as of December 31, 2008:

Item Purchased	Monthly Payment	Term of Agreement	Ending Date	Principal Balance December 31, 2008
Copier/Printer	\$ 231	36 months	July 24, 2010	\$ 4,154

Note 5. Asset Forfeiture Account – Federal

The Perry County Sheriff maintains an official bank account for monies obtained from seizures and sales of property used in illegal drug activities. The purpose of this fund is to purchase necessary equipment for operating the Sheriff's office. The beginning balance as of January 1, 2008 was \$0. During 2008, the Sheriff received funds totaling \$8,861 transferred from the Sheriff's 2007 Asset Forfeiture Account, \$13,196 from Operation Unite, and \$49 for interest earned during the year. The Sheriff properly expended \$4,850, leaving a balance of \$17,256 of forfeited funds in the account for 2008.

Note 6. Asset Forfeiture Account – State

The Perry County Sheriff maintains an official bank account for monies obtained from seizures and sales of property used in illegal drug activities. The purpose of this fund is to purchase necessary equipment for operating the Sheriff's office. The beginning balance as of January 1, 2008 was \$0. During 2008, the Sheriff received funds totaling \$593 transferred from the Sheriff's 2007 Account, \$5,386 from Operation Unite, and \$11 for interest earned during the year. The Sheriff did not have any expenditures from the account, leaving a balance of \$5,990 of forfeited funds in the account for 2008.

Note 7. U.S. Army Corp of Engineers

The Perry County Sheriff's Department entered into an agreement with the U.S. Army Corps of Engineers for the period beginning May 2, 2008 and ending September 30, 2008. The purpose of the grant is to provide law enforcement services at Buckhorn Lake in Perry County, Kentucky. The Sheriff received reimbursements of \$14,616 during the calendar year for salary reimbursements.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS







**CRIT LUALLEN**  
**AUDITOR OF PUBLIC ACCOUNTS**

The Honorable Denny Ray Noble, Perry County Judge/Executive  
The Honorable Les Burgett, Perry County Sheriff  
Members of the Perry County Fiscal Court

**Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards**

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Perry County Sheriff for the year ended December 31, 2008, and have issued our report thereon dated April 6, 2010. The Sheriff's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

**Internal Control Over Financial Reporting**

In planning and performing our audit, we considered the Perry County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the regulatory basis of accounting such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control over financial reporting. We consider the deficiency described in the accompanying comments and recommendations to be a significant deficiency in internal control over financial reporting: 2008-04.



Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards  
(Continued)

Internal Control Over Financial Reporting (Continued)

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control. Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we do believe that the significant deficiency described above is a material weakness.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Perry County Sheriff's financial statement for the year ended December 31, 2008, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations: 2008-01, 2008-02, and 2008-03.

The Perry County Sheriff's responses to the findings identified in our audit are included in the accompanying comments and recommendations. We did not audit the Sheriff's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of management, the Perry County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen  
Auditor of Public Accounts

April 6, 2010

## COMMENTS AND RECOMMENDATIONS



PERRY COUNTY  
LES BURGETT, SHERIFF  
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2008

STATE LAWS AND REGULATIONS:

2008-01 The Sheriff Should Have Requested An Accurate Amendment For Salary Allotment For Deputies And Assistants

On December 19, 2008, the Sheriff presented an amendment of \$583,763 for the annual order setting the maximum amount which the Sheriff may expend for deputies and assistants. This request was a result of a pay raise for county employees and extra duties assigned to the Sheriff's office. Actual salaries paid by the Sheriff were \$586,910, which resulted in the Sheriff overspending the amended salary allotment in the amount of \$3,147. In the future, we recommend the Sheriff comply with KRS 64.530(3), and present an accurate amendment for the salary allotment for deputies and assistants.

*Sheriff's Response: Amendment was presented, but due to increased overtime and extra duties salary allotment increased.*

2008-02 The Sheriff Should Consult With The County Attorney Concerning Employee Social Security Deductions Paid From The Fee Account

While performing test of payroll, we noted the Sheriff used computerized software to generate payroll. During calendar year 2008, the software did not properly deduct Social Security deductions for three (3) of the Sheriff's deputies. When the Sheriff submitted social security taxes to the Internal Revenue Service, he used the software generated 941 report to submit the taxes. The 941 report included the amounts that had actually been deducted from the employee's payroll checks. The Sheriff was notified by the Internal Revenue Service that additional amounts totaling \$4,848 were due for social security taxes based upon gross wages paid by the Sheriff. The additional amount owed of \$4,848, which included \$2,424 for employee social security for the three (3) deputies, were paid to the Internal Revenue Service out of the fee account. We recommend that the Sheriff consult with the County Attorney concerning the employee social security taxes of \$2,424 for the three (3) deputies paid from the fee account and reported on deputies W-2s as social security tax withheld. We also recommend the social security taxes of \$2,424 due back from the employees be paid to the fiscal court as additional excess fees.

*Sheriff's Response: I have met with the County Attorney and am making arrangements with employees to reimburse the Sheriff's office. Reimbursements will be paid to the Fiscal Court as excess fees.*

PERRY COUNTY  
LES BURGETT, SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2008  
(Continued)

STATE LAWS AND REGULATIONS (Continued):

2008-03 The Sheriff Should Enter Into A Written Agreement To Protect Deposits

The Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. As of December 3, 2008, the Sheriff had bank deposits of \$248,584; FDIC insurance of \$250,000; and surety bond provided as collateral pledged of \$250,000. Even though the Sheriff obtained sufficient collateral of \$250,000, there was no written agreement between the Sheriff and the depository institution, signed by both parties, securing the Sheriff's interest in the surety bond provided as collateral. According to federal law, 12 U.S.C.A. § 1823(e), this agreement, in order to be recognized as valid by the FDIC, should be (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. Therefore, we recommend the Sheriff enter into a separate written agreement with the depository institution to secure the Sheriff's interest in the surety bond pledged or provided as collateral.

*Sheriff's Response: This has been corrected by obtaining a written agreement to protect deposits.*

INTERNAL CONTROL – MATERIAL WEAKNESS:

2008-04 The Sheriff's Office Has A Lack Of Segregation Of Duties

A lack of adequate segregation of duties exists over all accounting functions. One employee is responsible for recording cash, preparing and making daily bank deposits, writing disbursement checks, posting to ledgers, reconciling bank records to the receipt and disbursement ledgers and preparing monthly financial reports. Limited budget places restrictions on the number of employees the sheriff can hire. When faced with a limited number of staff, strong compensating controls should be in place to offset the lack of segregation of duties.

A segregation of duties over various accounting functions, such as recording cash, preparing bank deposits, writing checks, posting transactions to ledgers, reconciling bank records to the ledgers and preparing monthly reports is essential for providing protection from asset misappropriation and/or inaccurate financial reporting. If segregation of duties is not possible as a result of a limited number of office staff, the implementation of compensating controls is essential for providing this protection from asset misappropriation and/or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

PERRY COUNTY  
LES BURGETT, SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2008  
(Continued)

INTERNAL CONTROL – MATERIAL WEAKNESS: (Continued)

2008-04 The Sheriff's Office Has A Lack Of Segregation Of Duties (Continued)

To adequately protect against misappropriation of assets and /or inaccurate financial reporting, the Sheriff should separate the duties involving the depositing of cash, disbursing of cash, posting of transactions to the ledgers, reconciling of bank records to the receipts and disbursements ledger and preparing the monthly financial reports. If, due to a limited number of staff, that is not feasible, strong oversight over these areas should occur and involve an employee not currently performing any of those functions. Additionally, the Sheriff could provide this oversight. If the Sheriff does implement compensating controls, these should be documented on the appropriate source document.

*Sheriff's Response: Sheriff has initiated compensating controls due to limited staff.*

